



OPERATION DENTON

NPCC Homicide Working Group

January 2021

Executive Summary and Conclusions

“The review of the Glenanne Gang Series will have the interests of the victims, and their loved ones at its very heart.”

Jon Boutcher, OIOC, 2020.

Executive Summary

In 2019, the Barnard Judgement set out the requirement for an independent review of the activities of the 'Glenanne Gang', a statutory requirement in accordance with section 35 (5) Justice Act (NI) 2002 and Article 2, Human Rights Act 1998. The Chief Constable of PSNI requested that the enquiries were conducted by Jon Butcher, former Chief Constable and OIOC of Operation Kenova (the investigation into the criminal activities of the alleged Agent Stakeknife). The Barnard Review was commissioned as Operation Denton and commenced in February 2020.

The approach by Operation Denton to addressing the terms of reference considering the requirements of the Barnard Judgment and the Article 2 ECHR is an exemplar of best practice in respect of the extensive consultation and communication with all interested parties.

Since the start of Operation Kenova in 2016, additional inquiries have been adopted, resulting in a broadening of the investigative scope beyond the Stakeknife investigation. This NPCC HWG review will differentiate between 'Operation Kenova' (Stakeknife) and the wider entity of 'Kenova' which includes Operation Denton.

Operation Denton differs from Kenova in that it is being conducted as a review, and not as a criminal investigation at this time. This makes the approach by the operational team fundamentally different to that of Kenova from an evidential perspective. The challenges are compounded by the unique operating environment and the extraordinary sensitivities relating to conducting legacy enquiries in Northern Ireland and within the Republic of Ireland.

Despite the challenges of the Covid-19 pandemic, the NPCC HWG review has engaged in a programme of key consultations and informal interviews, and has been granted unfettered access to all staff and documents relevant for the process.

The paramount priority for Kenova is to place victims' families and survivors at the heart of every decision and action. The OIOC has devised and led a comprehensive and unprecedented programme of engagement with victims' families, survivors and stakeholders, and this has undoubtedly been central to the success of Kenova to date. The drive to establish the truth in relation to these crimes has resulted in hitherto unseen levels of engagement from sections of the community that have previously been 'hard to reach'. This approach to engagement is replicated in its entirety throughout Operation Denton.

The centrality of victim and family engagement in Operation Denton is paramount, and the personal contribution of the OIOC who has taken the lead in direct contact with those affected is exceptional. This level of personal responsibility far exceeds the expectations of the role of an OIOC. However, the NPCC HWG review noted comments by all stakeholders that it was this approach and energy that has won the hearts and minds of all of those affected in a manner not seen before.

The Operation Denton approach reinforces the practices adopted across Kenova in that the methodology appears to be an innovative hybrid of homicide and counter-terrorism processes with functions taken from the Murder Investigation Manual (MIM), the Major Incident Room Standard Administration Procedures (MIRSAP) and the Manual of Major Counter Terrorism Investigations. This is especially noteworthy as such a bespoke approach reflects the unique challenge facing Operation Denton in terms of managing multiple legacy homicide cases within a counter-terrorism setting as a review, and not an investigation. The NPCC HWG review would highlight this approach as good practice in an area of work unprecedented in terms of volume and complexity.

As Operation Denton sits within the Kenova construct, it benefits from the same highly evolved system of oversight and peer support provided by Kenova's governance framework. From the outset, the OIOC has recognised the need for a comprehensive approach and has devised and led the implementation of a multi-layered and independent governance structure. Of particular note is the inclusion of both individuals and NGOs related to, or otherwise representing the victims' families and survivors who have striven to have their voices heard over the years. By empowering these parties in this most inclusive manner, the Kenova leadership has established the very highest levels of trust and legitimacy in the community.

Early indications suggest the quantity of material to be reviewed is voluminous. Similarly, to Kenova, some of the material will be sensitive and there will be complexities and ongoing considerations when dealing with different agencies and jurisdictions. The NPCC HWG review believes the number of victims' families and survivors engaged may exceed those that have been encountered within Kenova. Having experienced the complexities and nuances of Kenova during the parallel 2021 Thematic Review, the NPCC HWG review is in no doubt that Operation Denton has a significant task ahead and, despite it being a review and not an investigation, the initial approach and methodology to discover and secure relevant material will be built on the highly evolved Kenova model.

A critical challenge for Operation Denton is to ensure that the review is able to manage the expectations of the victims' families, survivors and stakeholders concerning the meaning of 'collusion' within the context of the 'Glenanne series'. As there are numerous interpretations of what could (or should) constitute collusion, clarity surrounding how this will be defined and examined by Operation Denton should be communicated to all interested parties as soon as is practicable. Equally, defining the 'Glenanne Gang' and the crimes linked to it may be subject to significant differences in interpretation and this will require careful and considered management in terms of how any findings are communicated.

Staff engaged on Operation Denton also fulfil roles within the Kenova investigations. There is an expectation of omni-competence across a range of roles and responsibilities and a need for staff to move between the respective inquiries. Further consideration around current resources will need careful consideration as Operation Denton continues to evolve.

Operation Denton will require approximately 3 years to achieve its operational aims and objectives and that timescale is dependent on having sufficient capacity and capability throughout. Continuous engagement with NGOs and stakeholders will be crucial as the review develops and is likely to broaden as many of the enquiries will take place within the Republic of Ireland. A professional relationship with An Garda Síochána is critical to ensuring the support of stakeholders to Operation Denton.

The NPCC HWG review has identified areas that should be addressed at an early stage, leading on from the 2021 Kenova Thematic Review. A key objective will be for Operation Denton to broaden its intelligence and analytical capacity in order to assist in identifying which cases are clearly part of the 'Glenanne series'. Additionally, there is a necessity to ensure that digitisation of records within other agencies is reconciled both for the purpose of supporting the review but also in securing records for the benefit of future legacy investigations.

The NPCC HWG review considers that the OIOC, all victims' families, survivors and stakeholders can be assured that the activity being undertaken within Operation Denton is appropriate in order to address the terms of reference.

Conclusions

In compiling this report, the NPCC HWG review has exhaustively debriefed the Operation Denton Senior Leadership Team and the officers and staff performing all the operational roles detailed herein over a four-month period. A diverse array of stakeholders from across the various Governance and supporting groups have also been interviewed during this time. Throughout this process, the NPCC HWG review has been continuously impressed with the dedication and professionalism of all involved and with the successes that Kenova as a whole, including Operation Denton, has already achieved in terms of gaining the confidence of the victims' families, survivors and communities affected.

The strategy, vision and personal leadership of the OIOC permeates throughout the Kenova construct and thus both directly and indirectly exerts positive influence on all aspects of delivery in Operation Denton. This is especially evident in the absolute imperative that is clearly placed on successful family liaison and survivor contact. In relation to points 1 and 2 of the objectives and scope of this review therefore, the NPCC HWG Review can confirm that Operation Denton is being conducted in line with its Terms of Reference and is underpinned by the same strategic principles set by the OIOC throughout Kenova; in particular, by adopting a completely victim-focused approach.

The centrality of the victims' families and survivors to the OIOC's strategy constitutes one of the fundamental pillars of Kenova's wider compliance with Article 2 ECHR and this is replicated in the Operation Denton review. The NPCC HWG review had the benefit of consulting with Alyson Kilpatrick BL, and noted the interim findings of her review of Kenova more broadly, as documented in February 2020. The NPCC HWG review concurs entirely with Ms Kilpatrick's emphatic observations at that time in relation to the true independence of Kenova's leadership and direction, and this is similarly evident now in relation to the approach and methodology of Operation

Denton. The Operation Denton review conducts its enquiries in an exclusively victim-focused way, always without prejudice, and with robust governance in place to ensure both transparency and constructive challenge. It is the considered view of the NPCC HWG review that it is this fastidious approach by the Kenova (Operation Denton) leadership to ensuring that all the facets of ECHR Article 2 are not merely complied with but are, in fact, exceeded that has secured the vital sense of legitimacy that has so often eluded previous legacy investigations in Northern Ireland.

The remaining elements of the NPCC HWG review's scope were to provide commentary on Operation Denton's phased approach and supporting structures, including Intelligence and MIR capabilities. A number of observations have been made, most significantly in relation to the resourcing model, future funding arrangements, data management, digital technology and other key roles. Some of which can be managed internally within Kenova but others, most notably the paramount matter of future funding and the similarly critical need for the collation and digitisation of other agencies' relevant data holdings, will require significant support from senior stakeholders in order to be delivered.

The NPCC HWG review considers that a key contribution to Operation Denton's continued success would be to implement a regular series of independent milestone and thematic reviews to support the SIO (Strategic Review Manager) in the ongoing development of the inquiry.

In relation to the phased approach being adopted in Operation Denton, the NPCC HWG review highlights two particularly significant challenges, of which the OIOC, the SIO and their team are already fully aware, and are taking positive steps to address.

Firstly, the original commission, as set out in the Barnard Judgement, requires absolute clarity in terms of both the definitions applied, any caveats on those definitions and the communication of this understanding to the victims' families, survivors and all the communities affected. The NPCC HWG Review notes that the very terms 'Glenanne Gang' and 'Glenanne Series' are highly subjective and open to massive variance in interpretation depending on who is consulted. Unlike other self-defined criminal groups (whether terrorist organisations or urban gangs) those referred to as the 'Glenanne Gang' do not seem to have identified themselves as such, the term being instead applied to them by others. Equally, anyone affiliated to, or 'colluding' with such an ill-defined group may or may not be considered 'within scope', subject to who they were associating with, and to what degree and end. This same subjectivity applies to the definition of the term 'collusion' (not a recognised offence in criminal law) and what the community accepts as having been 'already established' in this regard. The NPCC HWG review has been impressed with the highly pragmatic approach adopted thus far to these existential questions for Operation Denton by the OIOC and SIO, and notes the considerable thought being put in to how this is communicated to victims' families, survivors and stakeholders both now and in the longer term.

This leads on to the second significant challenge identified; that the approach adopted during the opening phases of Operation Denton in relation to these key questions will undoubtedly influence the analytical processes applied in identifying the 'Glenanne Series' thereafter. The criteria for inclusion of a crime within the Operation Denton review process must include factors such as whether the suspect was, or was not,

ultimately accepted as a member of the 'Glenanne Gang', or indeed the crime itself was contributed to by someone colluding with them. These criteria, and the intelligence gathering and subsequent analytical processes applied in Operation Denton's phased approach, will therefore be pivotal in determining which cases, and which victims and survivors, are considered within the scope of the review. This complex, sequential process will demand a sustained commitment to the same victim-focused approach and clarity of communication that the NPCC HWG review has observed if the confidence of all victims' families and survivors is to be maintained. This imperative applies whether or not they ultimately fall within the scope of Operation Denton's final narrative in relation to the crimes of the 'Glenanne Gang'.

These two challenges within Operation Denton will require careful navigation and robust political and community support from all Kenova's senior stakeholders; from Government level through to the NGOs representing the victims' families themselves. Operation Denton will undoubtedly be seen by many of the victims' families and survivors as a 'last chance' to find some form of justice due to the strong reputation that Kenova now has within the affected communities and the absence of any other comparable capability.

This leads to an important corollary observation to the above, in relation to wider community confidence in this area and irrespective of the eventual findings of Operation Denton itself. Throughout extensive consultation with all stakeholders, the NPCC HWG review has consistently discovered that the timely formation of a wider Historic Investigations Unit - based on the foundations, leadership principles and practices of Kenova - is universally seen as the best possible solution to reinvestigate legacy matters as part of the wider effort to achieve reconciliation for all those affected by The Troubles in Northern Ireland.

This NPCC HWG review concludes with the view of a senior representative of an NGO representing the victims' families:

"You have to first heal the dead before you can begin to heal the living".